

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABEL CRUZ and MIGUEL THOMAS,

Defendants.

CASE NO. 2:22-cr-00179-LK

ORDER GRANTING UNOPPOSED
MOTION TO CONTINUE TRIAL
AND PRETRIAL MOTIONS
DEADLINE

This matter comes before the Court on Defendants' First Unopposed Motion to Continue Trial Date and Pretrial Filing Date. Dkt. No. 28. Defendants¹ seek to continue the trial date from December 27, 2022 to May 1, 2023, and to continue the pretrial motions deadline to March 20, 2023. *Id.* at 1. The Government does not oppose the motion. *Id.* at 2.

Mr. Cruz is charged with Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(C), and 846. Dkt. No. 1 at 1–2. Mr. Thomas is likewise

¹ Although the motion states that Abel Cruz is the movant, *id.* at 1, it indicates that in fact both defendants seek a continuance: the motion refers to “defendants” in the plural form, is signed by counsel for both defendants, and sets forth rationale for a continuance based on all three attorneys’ need for additional time, *id.* at 1–3.

1 charged with Conspiracy to Distribute Controlled Substances, along with Possession of a
2 Controlled Substance with Intent to Distribute and Carrying a Firearm During and in Relation to a
3 Drug Trafficking Crime. *Id.* at 2–3; *see* 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(C); 18 U.S.C. §
4 924(c)(1)(A)(i).

5 Defendants request a new trial date of May 1, 2023 because their attorneys “need additional
6 time to obtain and review discovery, conduct any appropriate investigation and prepare for the trial
7 of this matter.” Dkt. No. 28 at 1. Although counsel have obtained partial discovery from the
8 government, “much discovery” remains outstanding. *Id.* at 1–2. Counsel explain that they need
9 additional time to obtain and review discovery and to prepare for trial, including “meet[ing] with
10 . . . clients to review discovery and discuss their options, including any potential motions, as well
11 as strategies to negotiate a resolution or continue to trial.” *Id.* at 2. Counsel also need “to retain an
12 investigator to . . . review (at least some portions) of discovery, and conduct any appropriate
13 investigations, *inter alia*, locating and interviewing potential witnesses.” *Id.* Both defendants have
14 filed waivers under the Speedy Trial Act, waiving their right to a speedy trial through at least June
15 30, 2023. Dkt. Nos. 32, 35.²

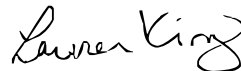
16 Pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by
17 granting a continuance outweigh the best interest of the public and the Defendants in any speedier
18 trial. Specifically, the Court finds that failure to grant the requested continuance would likely result
19 in a miscarriage of justice and would deny defense counsel the reasonable time necessary for
20 effective preparation, taking into account the exercise of due diligence, due to counsel’s need for
21 more time to review discovery, consider pretrial motions and defenses, consult with their clients,
22 and prepare for trial. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The Court finds that the additional
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24 ² Mr. Cruz has waived his right to a speedy trial up to and including September 30, 2023. Dkt. No. 35 at 1.

1 time requested is a reasonable period of delay and will be necessary to provide counsel and
2 Defendants reasonable time to accomplish the above tasks.

3 For these reasons, the Court GRANTS the motion, and ORDERS that the trial date for both
4 Mr. Cruz and Mr. Thomas shall be continued from December 27, 2022 to May 1, 2023. It is further
5 ORDERED that, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B), the period of delay from the
6 original December 27, 2022 trial date to the new trial date is EXCLUDED when computing the
7 time within which Defendants' trial must commence under the Speedy Trial Act. Pretrial motions
8 are due no later than March 20, 2023.

9 Dated this 8th day of December, 2022.

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11 Lauren King
12 United States District Judge
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